

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5748 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
Nos. 1 to 5 No.

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KANARAM KERARAM PRAJAPATI

Versus

STATE OF GUJARAT

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Appearance:

MR.H.R.PRAJAPATI FOR M/S THAKKAR ASSOC. for Petitioner  
MR.NEEGAM SHUKLA , AGP for Respondents.

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the order dated 13.6.1996 passed by the Police Commissioner, Ahmedabad City whereby the petitioner has been detained under the provisions of Gujarat Prevention of Antisocial Activities Act, 1985. The detention order was executed on 14.6.1996 and since then the petitioner is under detention lodged at Jamnagar District Jail,

Jamnagar.

This Special Civil Application was filed on 2.8.1996 and on 5.8.1996 Rule returnable for 2.9.1996 was issued. So far no reply or affidavit of the Detaining Authority has been filed. The grounds enclosed with the detention order show that three criminal cases under IOC were registered against the petitioner. Besides this the Detaining Authority has also taken into consideration the statements made by certain witnesses against the petitioner's criminal activities with regard to the incidents dated 6.5.1996 and 12.5.1996. The Detaining Authority has found the petitioner to be problem for public order and dangerous person.

The detention order has been challenged on more than one grounds but the learned counsel for the petitioner has stressed on the point that the allegation and the material on the basis of which the detention order has been passed against the petitioner do not make out the case of public order and at the most it can be said to be a case of the breach of law and order in view of the decision of the Supreme Court in the case of M.J.Shaikh Vs. M.M.Mehta reported in 1995(2) GLR Pg.1268. The order of detention therefore deserves to be quashed and set aside.

Accordingly this Special Civil Application is allowed. The impugned detention order dated 13.6.1996 passed by the Police Commissioner, Ahmedabad City is hereby quashed and set aside and the detention of the petitioner is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith if not required in any other case. Rule is made absolute. Learned Counsel for the petitioner submits that during the pendency of this petition the petitioner has been transferred to Sabarmati Central Prison, Ahmedabad.

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